



POLICE DEPARTMENT

November 16, 2010

MEMORANDUM FOR: Police Commissioner

Re: Police Officer Maya Mack
Tax Registry No. 901873
Bronx Court Section
Disciplinary Case Nos. 85969/09 & 86086/10

The above-named member of the Department appeared before me on October 22, 2010, charged with the following:

Disciplinary Case No. 85969/09

1. Said Police Officer Maya Mack, assigned to the Bronx Court Section, on or about October 28, 2009, having been directed by New York City Police Lieutenant Gary Bettello to report for duty, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS
GENERAL REGULATIONS

2. Said Police Officer Maya Mack, assigned to the Bronx Court Section, on or about October 28, 2009, scheduled to perform her regular tour of duty, said Police Officer was absent without leave.

P.G. 203-05, Page 1, Paragraphs 1 & 2 – PERFORMANCE ON DUTY –
GENERAL

P.G. 205-18, Pages 1 & 2 – ABSENT WITHOUT LEAVE – PERSONNEL
MATTERS

Disciplinary Case No. 86086/10

1. Said Police Officer Maya Mack, assigned to the Bronx Court Section, on or about December 4, 2009, having been directed by New York City Police Lieutenant

Dominick Valenti to report to Medical Division, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

2. Said Police Officer Maya Mack, assigned to Bronx Court Section, on or about December 4, 2009, having been directed by New York City Police Lieutenant Dominick Valenti to comply with the directives of the Counseling Unit to participate in an in patient counseling program, did fail and neglect to comply with said order.

P.G. 203-03, Page 1, Paragraph 2 – COMPLIANCE WITH ORDERS

3. Said Police Officer Maya Mack, assigned to Bronx Court Section, on or about November 30, 2009, did consume an intoxicant to the extent that said Police Officer was unfit for duty.

P.G. 203-04, Page 1, Paragraph 2 – FITNESS FOR DUTY

The Department was represented by Javier Seymore, Esq., Department Advocate's Office, and the Respondent was represented by Michael Martinez, Esq.

The Respondent, through her counsel, entered a plea of Guilty to the subject charges. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

The Respondent, having pleaded Guilty, is found Guilty as charged.

SUMMARY OF EVIDENCE IN MITIGATION

The Respondent has been a member of the Department for over 18 years and is currently assigned to the Bronx Court Section. She stated that when she graduated from the Police Academy she worked at the 28 Precinct. After three years, she was assigned to the Community Affairs Bureau. She left the Community Affairs Bureau for "family

reasons, shorter commute, more consistency in the scheduling.” Her last command prior to the Bronx Court Section was the 50 Precinct. The Respondent said that she has never been the subject of disciplinary charges before.

The Respondent explained that in April 2009 she suffered a severe family loss,

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The Respondent said that she contacted the Counseling Unit on her own and without being subject to any discipline at that time. As a result, around April 2009, she attended an inpatient alcohol treatment program¹ for 28 days.

After completing the treatment program, the Respondent was told that she had to attend meetings, and obtain a sponsor and a support group, all of which she failed to do “consistently.” This led to a relapse “a couple of months” after April 2009 and was about the same time that she was transferred to the Bronx Court Section. She again sought help from the Department and she attended an inpatient alcohol treatment program for another 28 days.

Upon the Respondent’s return from the second treatment program, she attended weekly sessions in Brooklyn. She provided paperwork substantiating her attendance as well as paperwork regarding her outpatient treatment. She was in complete compliance. The Respondent stated that there was increased oversight of her after she attended the treatment program the second time.

¹ Also referred to in testimony as “the farm” or “rehab.”

The Respondent said that on October 28, 2009, she was preparing to take a trip to South Carolina to pick up [REDACTED], and bring him to New York where she would be able to take care of him. However, the Counseling Unit refused to give her a day off to make this trip. She said it was their guideline not to give days off “while under their auspices,” even though her official assignment was the Bronx Court Section.

The Respondent said she contacted Lieutenant Gary Bettello of the Bronx Court Section and tried to explain the situation to him. She said she felt forced to make a choice, and so she “chose to take care of [REDACTED].” She knew she would be suspended if she did not appear for work. She did not appear, and, as a result, she was suspended for 30 days.

The Respondent indicated that on November 30, 2009, she went to the Counseling Unit. She explained, "Still the stressors were there but I was in compliance. I showed up and I was honest about still having factors going on; a court case, illnesses, things that were making me feel that I was not fit for duty and I was candid about that." She stated [REDACTED]. She said, "I believe I was unfit for duty on that day due to those factors."

The Respondent further stated that she had many stressors that day:

[illegible]

The Respondent stated that she was sent to an inpatient alcohol treatment program for a third time. Unlike the first two times, which had been voluntary, this time she had been ordered to go by the Counseling Unit. She did not stay there the whole time as she had [REDACTED].

She explained this to the Counseling Unit and was told that they would attempt to assist her in getting to court. But, she noted that she could not trust them. The Respondent said she left the treatment program because she needed to be certain that she make it to court.

On December 4, 2009, Lieutenant Dominick Valenti of the Medical Division contacted her at home and told her to report to the Medical Division because they wanted her to go back to treatment. She was told that if she failed to do this she would be suspended for 30 days. She refused to do this and was suspended again. The Respondent, however, denied that she consumed any intoxicants and asserted that she was not unfit for duty. [REDACTED]
[REDACTED]

After the 30-day suspension, the Respondent reported for duty as ordered. Upon being restored to duty, she was sent to an inpatient alcohol treatment program where she completed the course of treatment. She then attended her regular weekly meetings, went to the outpatient facility and complied with toxicology examinations and sponsorship. There have been no relapses or any other discipline since then and she is completely in compliance. She also said that she extended her outpatient treatment at Arms Acres Outpatient Services. An undated letter from that facility (Respondent's Exhibit A), stated that she began outpatient treatment on February 10, 2010 "and for the past eight months

her attendance and group participation has been excellent to date. All toxicology results has been negative she is motivated towards treatment completion 11/2011."

The Respondent added, "Well, first of all, I would like to apologize to the Department for the fact that it took seven months to actually put certain catalysts in place in order to remain living sober and happy. I would like to apologize; however, I can't apologize for reaching out and getting the help.

[REDACTED]

The Respondent said that she went to the inpatient alcohol treatment program four times, but that one time she stayed for only three days. With regard to her failing to go to meetings subsequent to her first treatment program visit, she said her effort was not what it should have been. She said that she believed it was just draining on the days' activities, noting that she was a working mom. She said she realizes that she should have been in total compliance but noted that part of the disease "is relapse and that it doesn't come out perfect every time."

The Respondent said she cannot apologize for that but "that is the way it works." She noted that she has to work at it and she did not do her part. She said she made the

commitment and that she had full intentions of making the commitment. She noted that:

[REDACTED]

The Respondent stated that in October 2009 she worked in the Bronx Court Section and had steady Mondays and Tuesdays as her regular days off (RDOs). When asked if, before going to [REDACTED], she could have waited for an RDO, she stated that she could not risk [REDACTED] while she waited. She acknowledged that he was home at that time, not in the hospital. [REDACTED]

[REDACTED]. The Respondent stated, "As I mentioned to you before, I wasn't willing to [REDACTED] on waiting for an RDO. The choice was mine to make and I already admitted to the fact that it was not in compliance with the Department, and for that I have apologized."

On questioning by the Court, she indicated that while she was in treatment she did not have RDOs.

With regard to November 30, 2009, the Respondent stated that she acknowledged that she was unfit for duty at that particular point by admitting that there were extenuating circumstances which made her unfit. [REDACTED]

[REDACTED] She said that

she could not attest to why the deputy inspector and lieutenant who signed the Fitness for Duty Report claimed to have smelled alcohol on her breath, saying

The only thing I can say to you or fathom is that when you have an individual who has admittedly said I have a problem with alcohol and they're visually and emotionally upset in front of you for whatever reasons, it's easier to assume that that is the problem rather than to – I'm in the Medical Division, if this is what you think then allow me to be tested; send me down for urine; tell me I'm being labeled with this charge.

I walked out of there not knowing anything about that charge until I arrived here to sign off on those charges.

I did not know that I was being charged with being unfit for duty. I was upset. I did almost fall off of my chair. I was crying, but that does not mean that I was inebriated, especially since it was not substantiated and it was not.

The Respondent did, however, acknowledge that she was unfit for duty on the day in question and that she was sent to the inpatient alcohol treatment program again. She said she did mention to the Counseling Unit that she had to go to the custody hearing in [REDACTED] and was told they would get back to her. She said that meant to her that it might not happen and so she made the choice to attend on her own. She recounted that there had been an instance where she checked out of a facility and the Department was supposed to pick her up and bring her home. She said she had something very important to do, it may have been a doctor's appointment, and the Counseling Unit never showed up to pick her up. She explained that that failure to pick her up impacted on her decision to go on her own to the custody hearing.

On questioning by the Court, the Respondent agreed that a part of the disease of alcoholism is relapse. When asked if she thought it was in the Department's interest to have her on dismissal probation to ensure that she did not relapse, the Respondent stated,

“I would think that the Department, after eighteen and a half years of stellar service that I provided would at least grant me – since I’ve been in compliance – the opportunity to finish my career on that same stellar level rather than on a monitored one.”

The Respondent agreed that she had been on full salary during the three periods of month-long treatment. She stated that she knows the Department has been “overly, overly supportive of me” which is why she said she extended her treatments on her own.

The Respondent stated that she would just like to finish her career “on [her] own steam” and have the Department trust that this time “is the end...I’m on the way out and I want to go out on the right note.”

PENALTY

In order to determine an appropriate penalty, the Respondent’s service record was examined, see Matter of Pell v. Board of Education, 34 N.Y.2d 222 (1974).

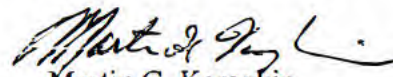
The Respondent was appointed to the Department on June 30, 1992. Information from her personnel folder that was considered in making this penalty recommended is contained in the attached confidential memorandum.

The Respondent has pleaded guilty to the specifications in this case. The sole issue is penalty. The Department has recommended a penalty of 61 days time already served on suspension and the imposition of a period of dismissal probation. The Respondent is prepared to accept a penalty involving the loss of the suspension days but asks the Court not to recommend a penalty involving dismissal probation. Among the arguments made by the Respondent is that she is a long-term member with a spotless record who provided, she said, “stellar service” to the Department.

A review of the Respondent's personnel records indicates that while the Respondent has no history of formal disciplinary action, her record regarding sick leave and job performance is far less than stellar.

Both the issues of attendance and performance are factors in the charges in this case. The Respondent intentionally violated a direct order. She was absent without authorization. Despite her years of service the Respondent has demonstrated that a period of monitoring is appropriate. For these reasons this Court concurs with the recommendation of the Department Advocate and recommends that the Respondent be DISMISSED from the New York City Police Department but that her dismissal be held in abeyance for a period of one year pursuant to section 14-115 (d) of the Administrative Code, during which time she remains on the force at the Police Commissioner's discretion and may be terminated at any time without further hearings. It is further recommended that the Respondent forfeit the 61 days served on pretrial suspension.

Respectfully Submitted,



Martin G. Karopkin

Deputy Commissioner Trials



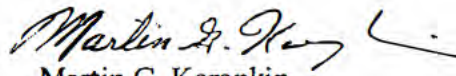
POLICE DEPARTMENT
CITY OF NEW YORK

From: Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER MAYA MACK
TAX REGISTRY NO. 901873
DISCIPLINARY CASE NOS. 85969/09 & 86086/10

The Respondent received an overall rating of 1.5 “Low/Very Low” on her last annual performance evaluation. She was rated 3.0 “Competent” in 2008 and 4.0 “Very Competent” in 2005. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] The Respondent has no prior formal disciplinary record.

For your consideration.


Martin G. Karopkin
Deputy Commissioner – Trials